

HR 17488

ROUTING AND RECORD SHEET

SUBJECT: (Optional)				
FROM:  Legislative Counsel		EXTENSION  6121	NO.	
			DATE 6 December 1974	
TO: (Officer designation, room number, and building)	DATE		OFFICER'S INITIALS	COMMENTS (Number each comment to show from whom to whom. Draw a line across column after each comment.)
	RECEIVED	FORWARDED		
1. General Counsel	12/6/74	12/9/74	<i>[Signature]</i>	<p>Everyone we have talked to indicates that the phase out of the Federal income tax exemption for overseas allowances is a dead issue this Congress, but it is recommended that we go on record to make our position clear in the interest of focusing attention at the proper level.</p> <p>We are also going to send a copy to the Secretary of State and the Secretary of the Treasury.</p> <div style="background-color: black; width: 200px; height: 40px; margin: 10px auto;"></div> <p><i>George L. Cary</i> Legislative Counsel</p> <p style="text-align: right;">STATINTL</p>
2. DDA	12/10	12/10	<i>[Signature]</i>	
3. <i>JSC</i> Director	12/10	12/10	<i>me/6/8</i>	
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QGC 74-2288

CENTRAL INTELLIGENCE AGENCY

WASHINGTON, D.C. 20505

OLC 74-2512

Registry

74-6835

10 DEC 1974

Honorable Roy L. Ash, Director  
Office of Management and Budget  
Washington, D. C. 20503

Dear Mr. Ash:

I wanted to advise you of my concern regarding section 311(b) of H. R. 17488 which would change the Federal income tax treatment accorded allowances for Federal employees overseas.

Agency employees are required to serve wherever their services are required, including assignments abroad involving arduous or hazardous circumstances. Overseas allowances permit such assignments to be undertaken without financial loss and in keeping with the living standards they are expected to maintain during their assignments.

The proposed change in H. R. 17488 in subjecting such allowances to Federal income tax vitiates these purposes. Moreover, in the face of enactment there would be a need to adjust such allowances upwards to offset the increased tax burden and it would appear that the indirect cost to the Government would offset any revenue gained.

My staff has received positive assurances concerning this matter from representatives of the Department of State, Department of the Treasury and OMB, but I did want you to know of my personal concern.

Sincerely,

/s/ W. E. Colby

W. E. Colby  
Director

Distribution:

Original - Addressee	1 - DDA
1 - DCI	1 - OGC
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	OLC:LLM:bao (6 Dec 74) (4151/9208)

States to withhold income tax upon such remuneration;  
or".

(O) Section 6012 (c) (relating to certain income earned abroad or from sale of residence) is amended—

(i) by striking out "Earned Abroad or" from the subsection heading, and

(ii) by striking out "by individual" and all that follows down through "United States".

(P) Subparagraph (B) (iii) of section 6091 (b) (1) (relating to place for filing returns of persons other than corporations) is amended—

(i) by striking out "section 911 (relating to earned income from sources without the United States)," and

(ii) by striking out the comma immediately preceding "or section 933".

(b) AMENDMENTS TO SECTION 912.—

(1) PHASE OUT OF SECTION 912.—Section 912 (relating to exemption for certain allowances) is amended by adding at the end thereof the following new sentence:

1 "In the case of a taxable year beginning after December 31,  
2 1974, and before January 1, 1978, the amount of the items  
3 excludable from gross income under this section (deter-  
4 mined without regard to this sentence) shall be reduced by  
5 the percentage reduction specified in the following table:

"For a taxable year beginning in:	The percentage re- duction shall be
1975 -----	25
1976 -----	50
1977 -----	75."

6 (2) REPEAL OF SECTION 912.—Section 912 (re-  
7 lating to exemption for certain allowances) is hereby  
8 repealed.

9 (3) CONFORMING AMENDMENTS.—

10 (A) Part III of subchapter N of chapter 1 is  
11 amended by striking out the heading and table of  
12 sections for subpart B.

13 (B) The table of subparts for such part III is  
14 amended by striking out the item relating to sub-  
15 part B.

16 (c) DEDUCTION FOR CERTAIN TUITION EXPENSES  
17 OF DEPENDENTS OF TAXPAYERS EMPLOYED OUTSIDE THE  
18 UNITED STATES.—

19 (1) IN GENERAL.—Part VII of subchapter B of  
20 chapter 1 (relating to additional itemized deductions

21 for individuals) is amended by redesignating section  
Approved For Release 2001/08/25 : CIA-RDP76M00527R000700010009-4

22 220 as section 221 and by inserting after section 219

## INCOME FROM OUTSIDE U. S. 26 § 912

...ings that salary was received in United States from an American firm ...ent in New York. Id.

## International law

...ere is no principle of international ...operating to relieve citizens from ...tax obligations and liabilities under ...laws of their country, or imposing ...them individual responsibility for ...made of tax revenue; but even if such

...inciple existed, it could not be enforced ...so as to interfere with or impair exclusive and nondelegable powers of executive and legislative departments with respect to foreign and military policies of nation. Farmer v. Rountree, D.C.Tenn.1956, 149 F.Supp. 327, affirmed 252 F.2d 490, certiorari denied 78 S.Ct. 1150, 357 U.S. 906, 2 L.Ed.2d 1156, rehearing denied 79 S.Ct. 14, 358 U.S. 853, 3 L.Ed.2d 92.

## § 912. Exemption for certain allowances

The following items shall not be included in gross income, and all be exempt from taxation under this subtitle:

(1) Foreign areas allowances.—In the case of civilian officers and employees of the Government of the United States, amounts received as allowances or otherwise (but not amounts received as post differentials) under—

(A) title IX of the Foreign Service Act of 1946, as amended (22 U.S.C., sec. 1131 and following),

(B) section 4 of the Central Intelligence Agency Act of 1949, as amended (50 U.S.C., sec. 403e),

(C) title II of the Overseas Differentials and Allowances Act, or

(D) subsection (e) or (f) of the first section of the Administrative Expenses Act of 1946, as amended, or section 22 of such Act.

(2) Cost-of-living allowances.—In the case of civilian officers or employees of the Government of the United States stationed outside the continental United States (other than Alaska), amounts (other than amounts received under title II of the Overseas Differentials and Allowances Act) received as cost-of-living allowances in accordance with regulations approved by the President.

(3) Peace Corps allowances.—In the case of an individual who is a volunteer or volunteer leader within the meaning of the Peace Corps Act and members of his family, amounts received as allowances under section 5 or 6 of the Peace Corps Act other than amounts received as—

(A) termination payments under section 5(c) or section 6(1) of such Act,

(B) leave allowances,

(C) if such individual is a volunteer leader training in the United States, allowances to members of his family, and

(D) such portion of living allowances as the President may determine under the Peace Corps Act as constituting basic compensation.

## 26 § 912

## INCOME TAXES

Ch. 1

Ch. 1

INC

Aug. 16, 1954; c. 736, 68A Stat. 290; Sept. 6, 1960, Pub.L. 86-707, Title V, § 523(a), 74 Stat. 802; Sept. 22, 1961, Pub.L. 87-293, Title II, § 201(a), 75 Stat. 625.

## Historical Note

1939 Internal Revenue Code. Similar provisions to this section were contained in section 116(j), (k) of the 1939 Internal Revenue Code.

**Derivation and Similar Provisions.** See Historical Note under section 115 of this title.

**References in Text.** Title IX of the Foreign Service Act of 1946, as amended (22 U.S.C., sec. 1131 and following), referred to in par. (1) (A) is classified to section 1131 et seq. of Title 22, Foreign Relations and Intercourse.

Section 4 of the Central Intelligence Agency Act of 1949, as amended (50 U.S.C., sec. 403(e), referred to in par. (1) (B) is classified to section 403e of Title 50, War and National Defense.

Title II of the Overseas Differentials and Allowances Act, referred to in par. (1) (C), is classified to sections 5922-5925 of Title 5, Government Organization and Employees.

Subsections (e) and (f) of the first section of the Administrative Expenses Act of 1946, as amended, referred to in par. (1) (D), are classified to sections 5721(3), 5726(b), and 5727(b)-(e) of Title 5.

Section 22 of such Act, referred to in par. (1) (D), means section 22 of the Administrative Expenses Act of 1946, which is classified to section 5913 of Title 5.

The Peace Corps Act, referred to in par. (3), is classified to chapter 34 of Title 22, Foreign Relations and Intercourse.

Sections 5 and 6 of the Peace Corps Act, referred to in par. (3), and sections 5(c) and 6(1) of such Act, referred to in par. (3) (A), are sections 5, 6, 5(c) and 6(1) of Pub.L. 87-293, which are classified to sections 2504, 2505, 2504(c) and 2505(1) of Title 22, respectively.

**1961 Amendment.** Par. (3). Pub.L. 87-293 added par. (3).

**1960 Amendment.** Pub.L. 86-707 exempted foreign areas allowances received under section 4 of the Central Intelligence Agency Act of 1949, title II of the Overseas Differentials and Allowances Act, subsection (e) or (f) of the first section of the Administrative Expenses Act

of 1946, or section 22 of such Act, provided that amounts received as post differentials shall not be exempt, and in the provisions relating to cost-of-living allowances excluded Alaska from the term "continental United States" and amounts received under title II of the Overseas Differentials and Allowances Act.

**Effective Date of 1961 Amendment.** Section 201(d) of Pub.L. 87-293 provided that: "The amendments made by subsections (a) and (b) of this section [to this section and section 1303 of this title] shall apply with respect to taxable years ending after March 1, 1961. The amendment made by subsection (c) [to section 3401 of this title] shall apply with respect to remuneration paid after the date of the enactment of this Act [Sept. 22, 1961]."

Section 201(d) of Pub.L. 87-293 repealed by Pub.L. 89-572, § 5(a), Sept. 13, 1966, 80 Stat. 765. Such repeal not deemed to affect amendments contained in such provisions, see section 5(b) of Pub.L. 89-572, set out as a note under former section 2515 of Title 22, Foreign Relations and Intercourse.

**Effective Date of 1960 Amendment.** Section 523(b) of Pub.L. 86-707 provided that: "Paragraphs (1) and (2) of section 912 of the Internal Revenue Code of 1954, as amended by subsection (a) of this section [pars. (1) and (2) of this section] shall apply only with respect to amounts received on or after the date of the enactment of this Act [Sept. 6, 1960] in taxable years ending on or after such date."

**Repeals; Amendments and Application of Amendments Unaffected.** Section 201 (a) of Pub.L. 87-293 repealed by Pub.L. 89-572, § 5(a), Sept. 13, 1966, 80 Stat. 765. Such repeal not deemed to affect amendments to this section contained in such provisions, and continuation in full force and effect until modified by appropriate authority of all determinations, authorization, regulations, orders, contracts, agreements, and other actions issued undertaken, or entered into under authority of the repealed provisions, see section 5(b) of Pub.L. 89-572, set out as a note under former section 2515 of Title 22, Foreign Relations and Intercourse.

**Delegation of Authority.** the President under par. (1) tion delegated to the Sec. ense with respect to the partments, and the Sec. Treasury with respect Guard, concerning civiliar nonappropriated fund it of the armed forces, see Ex.Ord.No.11137, Jan. 7, 19 note under section 5921 of ment Organization and E

**Delegation of Functions.** the President under sub. this section delegated to State, see section 101(b) 11041, Aug. 7, 1962, 27 F

**Cost-of-living allowances.** Salary increases 2

## Library references

Internal Revenue 18  
C.J.S. Internal Revenue

## 1. Cost-of-living allowa

In action by taxpayer come taxes alleged to li ously and illegally asse ed, evidence failed to e payer's basic compensa employee of the Hare Guard was fixed by st received cost-of-living cordance with regulati the President, but, ev that his compensation ful regulation, and th ceive a cost-of-living the period in controver taxpayer did not ov tax on theory that salary received by h cost-of-living allowanc taxable income under ing with exclusion of by employees of the ed outside the United cost-of-living allowa with regulations appr dent. Barnett v. U. S. 174 F.Supp. 907, affirm

This section and tions, Executive Order 792 (1943-1949 comp.)